

Attorney Docket No.: DRE-0032
Inventors: Fertala and Ko
Serial No.: 09/895,674
Filing Date: June 28, 2001
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Group I, claims 1-4, drawn to a tissue engineering scaffold, classified in class 514, subclass 21; and

Group II, claims 5-8, drawn to a method of producing a tissue engineering scaffold, classified in class 514, subclass 21.

The Examiner suggests that Groups I and II are distinct from each other. The Examiner has acknowledged Groups I and II to be related as process of making and product made. However, the Examiner suggests that the Groups are distinct because the product as claimed can be made by a materially different process.

Applicants respectfully traverse this Restriction Requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. The Examiner has failed to establish in the instant requirement that any serious burden would be placed on the Examiner if restriction were not made. While the Examiner suggests that these Groups have acquired a separate status in the art, it is respectfully pointed out that the class and subclass assigned by the United States Patent and Trademark Office to Groups I and II are

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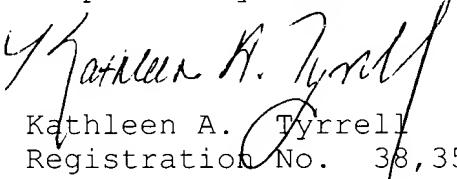
identical. Accordingly, a search of this class and subclass for art relating to claims of Group I would necessarily reveal any art relating to the claims of Group II. Accordingly, no serious burden would be placed on the Examiner by maintaining all claims in this Group.

Accordingly, since the instant Restriction Requirement fails to meet both criteria as set forth by MPEP §803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group I, claims 1-4, with traverse.

Applicants believe that this reply is fully responsive to the Office Action of record.

Respectfully submitted,


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